IN THE UNITED STATES DISTRICT C
FOR THE DISTRICT OF MARYLAN

APPENDIX A

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JAN 8 1980
CIVIL DIVISION
CORPORATION COUNSEL OFFICE

WILLIAM A. ALBAUGH

V. : CIVIL NO. K-78-2335

UNITED STATES GOVERNMENT
ET AL.

MEMORANDUM AND ORDER

Plaintiff, proceeding pro se, originally filed this suit in the Circuit Court for Anne Arundel County, Maryland, challenging the validity of the Republican and Democratic primary elections which were held on September 12, 1978 to select said parties' nominees for the position of Attorney General of Maryland. As grounds for said challenge, plaintiff alleged that the District of Columbia, as a federal enclave, is a part of the State of Maryland and that the primary elections should be treated as null and void because the residents of the District were arbitrarily excluded from voting in said elections. The defendants in said suit were the governments of the United States, the State of Maryland, and the District of Columbia, as well as the Attorney General of the United States, the Director of Census, the Attorney General of Maryland, the individual members of the Maryland State Administrative Board of Election Laws, the District of Columbia Corporation Counsel, and the individual members of the District of Columbia Board of Election.[1] By petition of the United States of America, this case was removed to this Court.

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[1]Plaintiff subsequently amended his complaint to name the following additional defendants: the Prince George's County Government, the Prince George's County Attorney, the members of the Prince George's County Board of Supervisors of Elections, the Montgomery County Government, the Montgomery County Attorney, and the members of the Montgomery County Board of Supervisors of Elections.

Attachment
C.A. No. 81-2753
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This is by no means the first time that plaintiff has filed suit seeking a judgment declaring that the District of Columbia should be treated as part of the State of Maryland for purposes of the census report and the registration of voters for state and federal elections. On June 9, 1964, plaintiff filed a similar action in this Court against the Governor and the Secretary of State of Maryland contesting the validity of the 1964 Maryland primary election for United States Senator. Said suit was heard by a three-judge court of this district and resulted in a judgment on the merits denying relief for the reasons stated in a per curiam opinion, Albaugh v. Tawes, 233 F. Supp. 576 (D. Md. 1964). That judgment was subsequently affirmed by the Supreme Court, per curiam, without opinion, in Albaugh v. Tawes, 379 U.S. 27, reh. denied, 379 U.S. 948 (1964).[2]

In 1968, Mr. Albaugh once again filed suit in this Court raising issues similar to those presented in the case at bar. Said case, Albaugh v. Agnew, et al., Civ. No. 19599 (D. Md. 1968), was apparently decided by Judge Harvey by Order dated September 10, 1968, in which he concluded, inter alia, that the complaint was "entirely without legal substance." In 1974, plaintiff herein filed another generally similar action in the United States District Court for the District of Columbia. That case, Albaugh v. Mandel, et al., Civ. No. 74-1282 (D.D.C. 1974), was dismissed by Judge Gesell by Memorandum and Order dated November 19, 1974, in which he held, inter alia, that

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[2]Plaintiff's 1964 action was apparently not the first time that he had brought suit on the issue of whether the District of Columbia is still legally part of the State of Maryland. As the District Court noted in its 1964 per curiam opinion, Mr. Albaugh had "raised the same question several times before in cases in which the merits have not been reached . . ." 233 F. Supp. at 577.

was "barred by the doctrine of res judicata" in [illegible] of Albaugh v. Tawes, supra. Mr. Albaugh unsuccessfully appealed said dismissal to the Court of Appeals of the District of Columbia, No. 74-2110 (D.C. Cir. May 9, 1975) (per curiam). Subsequently, his petition for writ of certiorari was denied by the Supreme Court. 423 U.S. 835 (1975).

Most recently, on March 12, 1976, Mr. Albaugh again filed suit in this Court against the United States and various federal and state officials[3] seeking a judgment declaring that the District of Columbia should be treated as part of the State of Maryland for election law purposes and restraining the certification of the results of the Maryland general election for United States Senator. Albaugh v. United States Government, Civil No. T-76-378 (D. Md. 1976). Judge Thomsen dismissed plaintiff's complaint in an opinion dated May 5, 1976, in which he stated, in relevant part, at 2-3:

> In an effort to avoid the defense of res judicata, raised by defendants herein, plaintiff cites Evans v. Cornman, 398 U.S. 419 (1970), affirming a decision of a three-judge court in this district, Cornman v. Dawson, 295 F. Supp. 654 (1969). That case dealt with the right of persons residing on the grounds of the National Institute of Health, a federal enclave in Montgomery County, Maryland, to vote in Maryland elections, and held that the denial of such right violated the Equal Protection Clause of the Fourteenth Amendment. * * *
>
> There is a real difference between residents of the District of Columbia and NIH residents. Congress has given certain voting rights to residents of the District; for additional rights, they and the plaintiff herein must look to Congress. Albaugh v. Tawes, supra, is still good law, and controls the decision of this case.

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[3]Named as defendants in said action were the United States Government, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, the Secretary of Commerce, and the Chairman of the State Administrative Board of Election Laws.

Judge Thomson's decision was affirmed by the Fourth Circuit, which dismissed Mr. Albaugh's appeal on grounds of res judicata. No. 76-1548 (4th Cir. Dec. 23, 1976) (per curiam).

It would appear that each of the defendants is entitled to invoke either the doctrine of res judicata or the doctrine of collateral estoppel as a defense to this suit. However, in any event, for the reasons stated in the opinions in one or more of the prior cases instituted by Mr. Albaugh, which are discussed supra, Mr. Albaugh's contentions herein are without merit. Accordingly, plaintiff's within complaint, as amended, is hereby dismissed with prejudice.

The Clerk is directed to mail copies of this Memorandum and Order to plaintiff and to counsel of record. It is so ORDERED, this 26th day of December, 1979.

J. Frederick Motz
United States District Judge

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILLIAM A. ALBAUGH	)	
Plaintiff	)	
v.	)	Civil Action No. 81-2753
BRUCE CHAPMAN, et al.	)	
Defendants	)	

FILED

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CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

MEMORANDUM ORDER

Plaintiff's pro se complaint essentially challenges the legality of the 1801 cession of part of Maryland to the United States for the establishment of the District of Columbia. Plaintiff alleges that the illegal cession has resulted in erroneous census reports for Maryland, upon which illegal apportionment and redi-tricting decisions have been made. As his causes of action he alleges violation of the Voting Rights Act, 42 U.S.C. § 1971 et seq. and numerous constitutional violations. Defendants in this case are Bruce Chapman, Director of the Bureau of Census, U. S. Department of Commerce, the United States Government, the District of Columbia Government and the State of Maryland. Defendants District of Columbia and the State of Maryland have each filed a motion to dismiss.

Plaintiff has filed numerous suits seeking a judgment declaring that the District of Columbia was illegally created and should be treated as part of the State of Maryland for purposes of the census report and the registration of voters. In 1964 plaintiff brought suit in the United States District Court of Maryland and his case was denied on the merits. Albaugh v. Tawes, 233 F. Supp. 516 (D. Md. 1964). That judgment was affirmed by the Supreme Court, per curiam, without

opinion. Albaugh v. Tawes, 379 U. S. 27, reh. denied, 379 U. S. 948 (1964). In a subsequent similar suit in the United States District Court for the District of Columbia, J. Gesell dismissed plaintiff's case on the grounds of res judicata. Albaugh v. Mandel, et al., Civil Action No. 76-1282 (D.D.C., 1976) One of plaintiff's more recent attempts to litigate these issues was an action before the United States District Court for the District of Maryland, William Albaugh v. United States, et al., Civil Action No. R-78-2335. In a well-reasoned opinion which traced in detail the history of plaintiff's litigation of these issues, the Court dismissed the case. (J. Kaufman, Order of December 26, 1979).

This Court also finds that plaintiff's claims are barred by the doctrine of res judicata. Accordingly, it is by the Court this 17th day of December 1981,

ORDERED that this case is dismissed with prejudice.

JOHN L. GIESS
U. S. DISTRICT JUDGE